

RECORDS MANAGEMENT COMMITTEE
City Manager's Conference Room, Eighth Floor, City Hall
400 Stewart Avenue, Las Vegas, Nevada
CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.ci.las-vegas.nv.us>

August 31, 2001
1:30 p.m.

CALL TO ORDER: City Clerk Ronemus called the meeting to order at 1:32 p.m.

ATTENDANCE: Barbara Jo (Roni) Ronemus, City Clerk
Doug Selby, Deputy City Manager (Excused 3:25)
John Redlein, Assistant City Attorney
Joseph Marcella, Director, Information Technologies
Mark Vincent, Director, Finance & Business Services
Richard Goecke, Director, Public Works
Radford Snelding, City Auditor
Sharon Kuhns, Records Administrator
Vicky Darling, Assistant Deputy City Clerk

Betsy Fretwell, Assistant City Manager (Arrived 3:05/Excused 3:11)
David Riggleman, Director of Communications
Greg Herlean, Manager of Purchasing & Contracts Division of Finance &
Business Services
Kathy Simpson, Sewer Services Division of Public Works

ANNOUNCEMENT MADE RE COMPLIANCE WITH THE OPEN MEETING LAW - Meeting noticed and posted at the following locations:

Downtown Transportation Center, City Clerk's Board
Senior Citizens Center, 450 E. Bonanza Road
Clark County Government Center, 500 S. Grand Central Pkwy
Court Clerk's Bulletin Board, City Hall
City Hall Plaza, Posting Board

(1:32)

1-1

BUSINESS:

A. APPROVAL OF FINAL MINUTES BY REFERENCE OF THE RECORDS MANAGEMENT COMMITTEE MEETING OF AUGUST 10, 2001.

MARCELLA - Motion to APPROVE – SELBY - seconded the motion – UNANIMOUS

(1:34)

1-35

B. DISCUSSION AND POSSIBLE ACTION ON ALTERNATE FEE SCHEDULES FOR PUBLIC RECORDS REPRODUCTION FOR THE FOLLOWING DEPARTMENTS:

City Clerk's Office – Chair Ronemus confirmed with Assistant City Attorney Redlein that there would be no conflict in her presenting or voting upon the alternate fee schedule for her office. With that guidance, Chair Ronemus outlined those exceptions contained in her handout regarding fees charged by her office. There was considerable discussion by the Committee regarding justification of the \$40 per hour charge for verbatim transcripts. Chair Ronemus pointed out that Henderson and Boulder City do not prepare transcripts regardless of who makes the request and that the proposed rate is consistent with that charged by North Las Vegas. Although one of the Deputy City Clerks uses a court reporting machine, she is not certified and simply uses it to take notes similar to those taken via another means by the other Deputy City Clerks. In fact, utilizing the writer, the translation program and the clean-up process actually take longer than to straight type a transcript from the audio tape. Chief Deputy City Clerk Beverly Bridges added that the per hour rate is a composite based the time required to type the transcript, the time required to proof the transcript and the time required to make corrections. Mr. Marcella asked how the equation would be adjusted for inflation. Chair Ronemus responded that the charge for transcripts has been \$5 per page for as long as she can recall. Deputy City Manager Selby pointed out that it would appear to be excess to charge the hourly rate and then also charge the \$1 per page. Chair Ronemus agreed to drop the additional dollar per page for transcripts from her schedule, except where a transcript is already readily available.

Mr. Goecke questioned the amount of revenue generated for the City as a result of reproduction or copying fees. Chair Ronemus replied that \$80,000 total were collected in the last fiscal year, \$34,000 of which was directly related to the Building & Safety enterprise fund. The City Clerk's office collected a total of \$3,000. The drop in revenue was a result of a considerable amount of documentation being provided electronically and without charge to the requesting party. In addition, there is a policy for providing documentation without charge to other entities who reciprocate by providing their documentation to the City of Las Vegas.

Mr. Goecke expressed a concern with the inconsistency between departments regarding the same type of items; i.e., floppy disks. Chair Ronemus agreed that it is important that there be a consistency throughout the City and that she would be willing to hold that portion of her schedule until those Departments involved could meet and reach a consensus.

Chair Ronemus summarized her proposal for media requests that the first 15 pages be without charge and \$1 per page thereafter. All requests for documentation previously provided within 30 days would include a \$1 per page charge for all pages. David Rigglesman, Director of the Department of Communications, submitted a handout which confirmed that the general policy by Clark County, Henderson and North Las Vegas for \$1 per page to the general public but no charge for routine requests by the media. Additionally, he stated an interim policy for the City of Las Vegas has been routine requests for 25 pages or less be without cost and ten cents per page beyond that 25 pages. Non routine and extraordinary requests could be subject to an hourly charge plus the ten cents per page. Lastly, Mr. Rigglesman's handout included a proposed Media request form. Assistant City Attorney Redlein opined that the media, which is a for-profit business, should not be treated as a unique party and not charged for documentation. There has never been any benefit to providing documentation free. Sharon Kuhns, Records Administrator,

added that the media, or any member of the public, has the option of receiving documentation without charge in an electronic format. To date, the media has strongly rejected utilizing the electronic venue. Assistant City Attorney Redlein pointed out that individual Director has limited discretion to provide documentation free in order to address or resolve a situation. Mr. Rigglesman replied that he was concerned that it would appear that the City was creating roadblocks, preventing open government and potential inconsistency between Directors.

Chair Ronemus noted that the Committee is charged with providing guidance to the Directors and to prevent them from being put on the spot. Deputy City Manager Selby suggested that Mr. Rigglesman respond to all media requests. Chair Ronemus pointed out that the City Clerk's office is the official public information office. Mr. Goecke added that he would not want to have to set up a system for his off-site people to take money or force people to travel to City Hall in order to obtain documentation for which they have to pay. Mr. Vincent agreed that doing so would not be cost-effective since the expense of each transaction would exceed the amount collected. Deputy City Manager Selby agreed that there was an issue of access. Mr. Vincent indicated that there had been previous discussion by the Committee regarding establishing a threshold whereby copies would be provided free of charge to everyone. Chair Ronemus responded that such a threshold would be very detrimental to her office. The \$1 per page creates a deterrent to frivolous requests. Deputy City Manager Selby stated that he would hesitate to bind other Departments regarding the policy without consulting them.

Mr. Vincent questioned whether the changes being discussed would necessitate amending the resolution adopted by Council. Assistant City Attorney Redlein answered that the discussion involved exceptions to the fee schedule adopted by resolution. Mr. Rigglesman described a situation where a significant number of vehicle records were provided for review by a reporter, no copies were made and there was no charge. Assistant City Attorney Redlein agreed that anyone can review records without charge, but all requests for reproduction should be handled through the custodian of the record. Ms. Kuhns explained that the purpose of having the actual document provided by a custodian is to prevent the disappearance of said document. Assistant City Attorney Redlein stressed that the Public Information Office or Communication Department is only involved when a request crosses Department boundaries. Mr. Vincent asked whether space would be designated within a department or at a central location like the City Clerk's office for someone to review documents while staff baby-sits them.

Mr. Rigglesman discussed the lack of any discretionary language within the resolution or City policy. Assistant City Attorney Redlein replied that official language does not exist. It is inherent in the authority given to any Director and the trust placed in any person holding such a position of authority. The only way to avoid arbitrary discretion between Directors would be to remove any such discretion whatsoever. Directors understand that they must be able to justify any discretionary act and take responsibility for same. Mr. Marcella indicated that he understood the point but was struggling with a method to establish consistency.

Chair Ronemus made a motion, which she later withdrew as a result of the lack of a second to the motion, that the media be viewed as a separate class for the dissemination of records. Mr. Vincent responded to the motion that the resolution would need to be amended in order to create a new category. Mr. Goecke stated that the Directors' discretion already provided for special treatment of the media. Chair Ronemus expressed concern with differences between Directors.

Mr. Vincent stressed that he does make the evaluation and notifies the Communication Department regarding free documentation. Areas where there may be concern, the request is provided to the Communication Department for case-by-case handling. He is unaware of any problems that have arisen to date. Mr. Marcella concurred, but ultimate responsibility and how much should be charged remains uncertain. Mr. Redlein stated that free copies always benefit the media, but not always the City. It may be inconvenient for reporters to pay for records and even more inconvenient to be reimbursed. It would be acceptable to bill the media. Mr. Vincent agreed that he would be happy to set up an account. The reason Mr. Marcella is concerned is because he is generally involved in extraordinary requests and not routine requests. That is why he asks Finance how much to charge. Mr. Marcella stated that he would not support differentiating between the media or any other group, but seek a threshold that would not impact the City Clerk's office.

Assistant City Attorney Redlein stressed that his motion that the media not be treated as a separate class, which passed, included implicitly the trust in the Directors' discretion. Any records provided to the media for under \$100 should be billed. Chair Ronemus rebutted that fairness eliminates discretionary. Mr. Goecke disagreed. There will be discretion which is inconsistent and the Directors will have to deal with the fallout from that inconsistency which is a fact of life. City Auditor Snelding pointed out that if the documentation was not useful or the story did not go forward, it would be unrealistic to expect the recipient to pay the bill. They will simply stiff the City. The puts the City right back at the start. Chair Ronemus concurred. Mr. Vincent countered that each entity would write a story about how much the other entity owed. Mr. Riggelman opined that the media's response will be adverse to the City.

Chair Ronemus resumed summary of her handout covering her alternative fee schedule, subject to removing the media portion. Free electronic documentation is available to everyone without any threshold. It was agreed upon recommendation by Mr. Goecke that the free materials would not be listed so as not to unduly restrict the City Clerk's discretionary authority. Assistant City Attorney Redlein rebutted that meeting documentation must be provided without charge. Ms. Kuhns presented the section of NRS 2.41 which makes that mandatory. Mr. Marcella pointed out that eventually the City will hopefully be able to provide everything by way of another venue and publications provided free are already identified elsewhere.

Chair Ronemus confirmed that the use of an alternate venue such as CDs, etc., must be presented to the Committee, however, it would be best to wait until that could be addressed City-wide. Without making a motion and abstaining on any motion which might be made, she requested the Committee approve the City Clerk's fee schedule as amended. Mr. Marcella suggested that such amendment might include a threshold of five pages for the media. Assistant City Attorney Redlein repeated that such a threshold is not necessary because a Director can be creative and exercise discretion. For example, a copy of the material can be provided from the books to be purged. Mr. Goecke stated that his concern is more with inconsistency on exactly the same items as listed on posted fee schedules. The postings should be consistent across the board. City Auditor Snelding pointed out that during an audit, his staff would note as an exception if copies were being provided without the \$1 per page charge. Chair Ronemus withdrew her alternative fee schedule inasmuch as the only remaining item involved verbatim transcripts which could be considered alternate medium for which the City Clerk's office is the only source.

Chair Ronemus and Mr. Goecke submitted their various medium charges for comprehensive evaluation by Ms. Kuhns in comparison with other Departments during a future meeting. The Committee will then establish a standardization. Ms. Kuhns will e-mail the Directors to identify any deviations.

REDLEIN – motion that the media not be treated as a separate class – MARCELLA – seconded the motion – Motion carried with Ronemus and Vincent voting NO

(1:35 – 3:17)

1-45

Purchasing and Contracts Division of the Finance & Business Services Department – Mr. Vincent explained that the statute requires bid documentation be provided without charge for pending bids and for past bids are provided at \$1 per page. In an attempt to drive potential bidders to the DemandStar service, which has a \$35 annual subscription fee, the intent is to establish a deterrent, cost-recovery charge. Use of DemandStar by potential bidders represents a considerable savings for the City and \$1 per page is excessive for a bid package. The recommendation is for bid packages to be provided for \$.25 per 8.5 x 11 page and \$1 per page for blueprints. Mr. Marcella and Assistant City Attorney Redlein discussed that the materials being discussed are more a publication than a public record.

It was agreed that distribution of bid packages can only benefit the City by generating competition. Ms. Kuhns confirmed that audio tapes are sometimes made for pre-bid conferences. Greg Herlean, Manager of Purchasing and Contracts, suggested withdrawing audio tapes until a City-wide policy is established. Further the \$.25 per page should be amended to \$.25 per 8.5 x 11 page and \$1 per page for blueprints. Mr. Marcella expressed continuing concerns with the documentation actually being a publication. There should be some charge, but he would be uncertain as to the actual amount.

REDLEIN – motion that approve the alternate fee schedule as amended – GOECKE– seconded the motion – Motion carried with Marcella voting NO

(3:17 – 3:30)

2-407

Office of Communications – Mr. Rigglesman confirmed that the policy regarding the media will become effective October 1, 2001. There was repetitive discussion regarding the impact of the fees to be charged the media. It was suggested that those on the prevailing side of the motion could assist Mr. Rigglesman with making the announcement to the media. This will be a very newsworthy item. Chair Ronemus advised that there is one more Committee meeting to address the issue. City Auditor Snelling repeated that although good judgment is the only thing that keeps the City out of trouble, deviation from an established policy is an exception during an audit and is contrary to the control trying to be achieved. Mr. Vincent responded that Directors understand that responsibility and are prepared to take the consequences for their discretionary actions.

(3:30 – 3:47)

2-827

**C. DISCUSSION AND POSSIBLE ACTION ON REVISION TO MUNICIPAL CODE
CHAPTER 2.60 RECORDS MANAGEMENT.**

Chair Ronemus suggested that this item be abeyed to the next Records Management Committee meeting.

(3:47)

2-1438

**D. INFORMATIONAL MATTERS FOR FUTURE RECORDS MANAGEMENT COMMITTEE
AGENDAS.**

None.

(3:47 – 3:48)

2-1442

CITIZENS PARTICIPATION:

None.

(3:48)

2-1449

ADJOURNMENT:

**GOECKE - Motion to ADJOURN – VINCENT - seconded the motion – UNANIMOUS with
Selby excused**

The meeting adjourned at 3:48 p.m.

/vwd